

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**ANDRONACO, INC., d/b/a ANDRONACO
INDUSTRIES,**

Respondent

Case 07-CA-160286

and

LINDSEY JOHNSTON, an Individual,

Charging Party

**RESPONDENT'S EXCEPTIONS TO
ADMINISTRATIVE LAW JUDGE'S DECISION**

Respondent, Andronaco Industries, Inc., by its attorneys, Jackson Lewis P.C., pursuant to Section 102.46 of the National Labor Relations Board's Rules and Regulations states the following exceptions to the decision of the Administrative Law Judge.

EXCEPTIONS

1. The ALJ's reliance on a theory not alleged in the Complaint to find the Charging Party's discharge to be unlawful.
2. The ALJ's conclusion that Respondent's discussions with "Zurida showed that Respondent was intentionally concerned whether Barrett released information about pay and whether other employees learned of the suit."
3. The ALJ's finding that "Schweda's documentation regarding an August 7 conversation" ... demonstrates pretext.
4. The ALJ's finding that Ron Andronaco was concerned about Barrett's discussion of wages rather than his access to confidential information.

5. The ALJ's finding that Ron Andronaco made the decision to terminate Johnson because Schweda and Sarver presented their reasons for termination to him. (ALJ p. 14)

6. The ALJ's conclusion that the allegation concerning the statement of disloyalty was properly included in the complaint even though there was never any unfair labor practice charge making any such allegation. (ALJ p. 15)

7. The ALJ's finding that Johnson was accused of disloyalty for engaging in protected activity.

8. That even though the theory on which the ALJ found that Johnson was unlawfully terminated, was never alleged in the Complaint, and it was still properly the basis for her decision because "the Barrett connection was fully litigated."

9. That Nate Barrett engaged in protected concerted activity.

10. That Lindsey Johnston engaged in protected concerted activity with Nate Barrett.

11. That Respondent perceived Lindsey Johnston to have engaged in protected concerted activity.

12. That Nathaniel Barrett was an employee within the meaning of § 2(3) of the Act.

13. That Respondent had knowledge that Lindsey Johnston engaged in protected concerted activity.

14. That Respondent had animus towards protected concerted activity.

15. That Respondent presented shifting reasons for its decision to terminate Lindsey Johnston.

16. That Respondent tolerated Lindsey Johnston's performance issues.

17. That Respondent stated reason for terminating Lindsey Johnston for performance issues was a pretext.

18. That Johnston's termination violated § 81 of the Act.
19. Conclusions of Law #4 and 5.
20. The portions of the proposed remedy that require Respondent to "make whole Lindsey Ball-Johnston for any losses or other benefits"
21. The following portions of the proposed Order: 1(h), 1(i), 1(j), 2(c), 2(d), 2(e), 2(f), 2(g), 2(h), and 2(i).

JACKSON LEWIS P.C.
Attorneys for Respondent

Dated: May 18, 2016

By: 

Timothy J. Ryan (P40990)

61 Commerce Avenue, SW
Fifth Floor
Grand Rapids, MI 49503
(616) 940-0240